Single Bench

CPIOL (4) (2)

**IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WRIT PETITION (C) No. 5255 / 2006**

**PETITIONER:**

Smt. Manorama Yadav,
W/o Shri Poonaram Yadav,
Gram Panchayat Kasauda, Tehsil Gunderdehi District Durg, (C.G.)

**VERSUS**

**RESPONDENTS:**

1. State of Chhattisgarh,
Through Secretary,
Department of Panchayat &
Rural Development, Mantralaya
Raipur, C.G.

2. B.C. Sahu, Presiding Officer, Gram Panchayat Kasauda, Tehsil Gunderdehi District Durg, (C.G.)

3. Specified Officer,
Sub Divisional Officer Patan,

4. Narendra Nishad S/o Ramadhin,
Aged about 38 years, Up Sarpanch
Gram Panchayat Kasauda,

5. Narmada Nishad S/o Deenu Aged about 38 years, Panch Ward No.1,
Gram Panchayat Kasauda,

6. Shiv Kumar Thakur, S/o Udhawa Singh Aged Abour 35 years, Panch Ward No.2, Gram Panchayat Kasauda

7. Jeewan Lal S/o Rameshar Yadav,
Aged about 33 years, Panch, Ward No.3 Gram Panchayat Kasauda,

8. Santosh Shrivas S/o Gendram aged About 33 years, Panch, Ward No.4,
Gram Panchayat Kasauda,

9. Ganesh Bhaje S/o Toran Bhaje
Aged about 22 years Panch, Ward No. 5 , Gram Panchayat Kasauda,

10. Smt. Rajkumari Sahu W/o Bhukau Sahu Aged about 48 years Panch, Ward No. 6 , Gram Panchayat Kasauda,

11. Parmanand Sahu S/o Ramprasad Sahu, aged about 33 years,
Panch, Ward No. 7 , Gram

P.R. No. 5234/16
Presented by Shri Jagnand Singh
dated 19/9/16

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Panchayat Kasauda,

12. Sarswati Sahu W/o Khorbahara Sahu, aged about 35 years, Panch, Ward No. 8 , Gram Panchayat Kasauda,

13. Nainkunwar W/o Krishna Prasad aged about 55 years,

14. Usha Bai W/o Khem Nishad, Aged about 25 years

15. Daulal Kothari, S/o not known, aged about 50 years,

16. Smt. Uarvashi W/o Kanjulal, aged about 35 years

17. Paras Ram Thakur, S/o Sukhulal, Aged about 36 years

18. Radha Bai W/o Etwari aged about 35 years

19. Prabhadevi Thakur W/o Toran Tahkur,

20. Mangal Das Chaturvedi S/o Not known, aged about 65 years

21. Sushil Soni S/o Thakur Ram Soni, aged about 36 years, (RESPONDENT NO 13 TO 21 ARE R/O GRAM PANCHAYAT KAUSDA TAH. GUNDERDEHI DISTT. DURG)

22. Additional Collector, District Durg, C.G.

21/9/06

**WRIT PETITION UNDER ARTICLE 226/ 227 OF THE CONSTITUTION OF INDIA.**

HIGH COURT OF CHHATTISGARH AT BILASPUR

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SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

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WRIT PETITION (C.) NO.5255 OF 2006

Petitioner : Smt. Manorama Yadav

versus

Respondents : State of Chhattisgarh and others

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Present : Mr. Jitendra Gupta, counsel for the petitioner.
Mr. Arun Sao, Government Advocate for respondents No.1, 3 and 22.
Mr. P.R.Patankar, counsel for the caveators/respondents No.4 to 21.
None appears for respondent No.2.

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ORDER
(Passed on 11th Day of December, 2006)

The petitioner was elected Sarpanch of Gram Panchayat Kasaunda, Tahsil Gunderdehi, District Durg. A proposal for no confidence motion was moved against the petitioner with prior notice on 13-6-2006. There were 21 members in the Gram Panchayat Kasaunda, including the petitioner. All the members, including the petitioner, were present and participated in the meeting held on 13-6-2006. The resolution for no confidence motion was passed against the petitioner by 17 members out of the total 21 members of the Gram Panchayat in the said meeting dated 13-6-2006 (Annexure P-3). 3 members voted against the no confidence motion and vote of one member was cancelled.

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2. The petitioner has filed this petition impugning the order dated 14-8-2006 (Annexure P-2) passed in Panchayat Case No.05/A-89/2005-06 holding that the resolution for no confidence motion held on 13-6-2006 was valid and legal, and the order dated 14-9-2006 (Annexure P-1) passed by the Secretary to the Government of Chhattisgarh, Department of Panchayat and Rural Development, Raipur, wherein the revision was dismissed on the ground that under the provisions of the Chhattisgarh Panchayat (Appeal and Revision) Rules, 1995, the revision ought to have been preferred to the Director, Panchayat not to the Secretary. Thus, the revision was dismissed as not being maintainable.

3. Learned counsel appearing for the petitioner submits that the no confidence motion passed against the petitioner in the meeting dated 13-6-2006 (Annexure P-3) is null and void, as the members of the Gram Panchayat Kasaunda were not served with proper notice of the meeting dated 13-6-2006 before the said meeting. The petitioner was not afforded proper opportunity of hearing to defend his case. The resolution dated 13-6-2006 (Annexure P-3) shows that all the members, including the petitioner, were present and participated in the voting without any protest about notice and the resolution was passed after discussion in the said meeting.

4. Be that as it may, it is admitted that the resolution was passed by overwhelming majority and the no confidence motion against the petitioner was carried out by 17 members out of the total 21 members present. Only 3 members voted against the no confidence motion and vote of one member was cancelled. This Court, in

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*Ghanshyam Yadav* vs. *Rameshwar Sahu and others* (Writ Petition No.6774 of 2006, decided on 5-12-2006), has held that in the event, the resolution is passed by overwhelming majority, the no confidence motion cannot be declared null and void. The facts of this case are similar to that of Writ Petition No.6774 of 2006. In the facts of the present case, it is not necessary to go into the validity of the order dated 14-9-2006 (Annexure P-1) passed by the Secretary to the Government of Chhattisgarh holding that the revision is not maintainable before the Secretary, but the same may be preferred before the Director, Panchayat.

5. Thus, for the above-stated reasons, the writ petition is dismissed. No order as to costs.

**Sd/-**
**Satish K. Agnihotri**
**Judge**

Gopal